GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Kunisetty Prakasa Rao, S/o Reddamma, R/o Visakhapatnam District, against the proceedings No. Ref.C5(M) 753/07, dated 03.05.2010 of the District Collector, East Godavari, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)- Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.21 Dated: 08.02.2019
Read the following:

1. Proceedings of the Dist. Collector, East Godavari, Ref.C5(M)/753/2007, dated 03.05.2010.
2. Appeal Petition filed by Sri Kunisetty Prakasa Rao S/o Reddamma, R/o VSP District, before the M(TW&RIAD),C.No.505/M(TW&RIAD)/2010, dated 25.05.2010.
3. Govt. Memo No. 3895/CV.2/2010, dt.28.5.2010.
4. From the District Collector, Visakhapatnam, Lr.No.Ref.C5(M)/532/2010, dated: 04.07.2010.
5. Govt. Memo No.3895/CV.2/2010, dt.17.01.2013, 16.10.2015, 10.11.2015, 08.08.2018 & 17.09.2018.

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ORDER:

In the reference 1st read above, the District Collector, East Godavari has issued orders cancelling ST-Konda Kapu caste certificates issued by the Revenue Authorities by Sri Kunisetty Prakasa Rao, S/o Reddamma and declared as BC-Turupu Kapu community.

2. In the reference 2nd read above, Sri Kunisetty Prakasa Rao, S/o Reddamma, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, East Godavari and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, East Godavari has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Kunisetty Prakasa Rao, S/o Reddamma.

4. The said Appeal Petition has been posted for hearing on 29.01.2013, 31.10.2015, 28.11.2015, 18.08.2018 & finally on 06.10.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant/ the Counsel for the appellant have attended for hearing scheduled on 06.10.2018 and argued the case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 03.05.2010, the Appellate Authority is observed that:

I. The appellant in his grounds has stated that the Judgment of the Collector is contrary to law, weight of evidence and trends of probabilities of the case and the collector has not discussed the point in issue independently but based on his order on the report of the C.B.CID and DLSC's report and he ought to have seen that the Act does not contemplate the verification by the CBCID and that report ought to have been rejected. The appellant narrated the genealogy of his ancestors and the same ought to have been accepted.

[Conte..on P.2]

II. Further he has stated that the findings of the Collector that no documents are filed before him to prove his caste is not correct. The Collector having mentioned the documents filed by the appellant in a Tabular forum failed to consider the same. The DLSC failed to note that all the relevant documents were produced in the railways at the time of his joining in service in the year 1970 and the Railways were always saying that the records missing and enquiry was does in post haste as the date of retirement was fast approaching and also failed to note that the appellant was denied the opportunity of cross examining the witnesses who were examined before the DLSC. In fact the appellant wanted to cross examine but he was not allowed to cross examine the witnesses. Finally he has stated that the explanation and the Additional Explanation submitted by the appellant is exhaustive and the points raised there in are not considered in the correct prospective which resulted in an adverse finding against the appellant.

III. The District Level Scrutiny Committee has observed that the caste status of the individual has been taken up on a complaint received from the SC and ST Commission and from the Divisional Manager, South Central Railways, Vijayawada that Sri Kunisetty Prakasa Rao has obtained job in Railways by producing a bogus ST certificate. The Divisional Manager, SC Railways has submitted a copy of the caste certificate said to have been issued in D.Dis CC No.211/07, dated 24.1.2007 by the MRO, Gangavaram. During the enquiry by the Tahsildar, Gangavaram and Sub-Collector, Rampachodavaram it is revealed that the caste certificate produce by the individual is not genuine as the signatures on the certificate was not tallied with the signature of the then Tahsildar. In the enquiry also the villagers of Pidathamamidi village have stated that there was no family by surname Kunisetti either present or in past and as per records his certificate is a bogus one and not given in MROs office. The individual has failed to submit his explanation on this point and accordingly the Collector presumed that the certificate produced by him is not yet all genuine one. Further during the enquiry by the CBCID it was also revealed that the individual brothers son Mr. Kunisetti Srinivas Naveen Chand deposed in his statement that he is residing in Visakhapatnam and they belongs to Turupu Kapu community (he has produced a School T.C) and he also stated that his father's younger brother Sri.K.Prakasa Rao obtained ST Konda Kapu certificate and secure job in Railways under ST quota and all of his family members claiming as Turupu Kapu by caste. Based on the findings of the DLSC, the District Collector has cancelled the appellant's ST-Konda Kapu caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority has observed that during the course of arguments, the appellant submitted his arguments that he belongs to Konda Kapu community and he joined in Railway Department basing on the ST certificate and he is not claiming the ST claim to his children and they are not brought up as STs and further stated that he completed (40) years of service in railways and just before his retirement the authorities taken action for cancellation of his ST certificate retired from service and underwent heart operations and requested to render justice to him. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the ancestors of the appellant resided in agency tracks and the surname of the appellate traced back (150) years ago are belongs to hill tribes. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri Kunisetty Prakasa Rao, S/o Reddamma, by upholding his ST-Konda Kapu community claim on the humanity ground and the said claim of the appellant purely for the individual alone and the Proceedings of the District Collector, East Godavari issued in the reference 1st read above are set- aside.

7. The District Collector, East Godavari is directed to take necessary consequential action in the matter.

[Conte..on P.3]

8. The records (containing R.Dis.C5/(M)/753/07, dated 03.05.2010, CF: 346 pages) received from the District Collector, East Godavari through the reference 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R. P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, East Godavari District.
(with original records) (BY RPAD)

Sri Kunisetty Prakasa Rao S/o Reddamma,
R/o H.No.3-53,Sharada Nagar, 2nd Street,
Anakapalli, Visakhapatnam District

M.Lakshmana Sarma, Advocate to the appellant
R/o A-205, Matrusri Apartment,
Hyderguda, Hyderabad -29.

Copy to:

The Director, TCR& TI, AP, Amaravati.
The PS to M(TWE&HFW).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER